United Nations CRC/C/OPAC/IRQ/CO/1

Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the report submitted by Iraq under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*

1. The Committee considered the initial report of Iraq (CRC/C/OPAC/IRQ/1) at its 1962nd meeting (see CRC/C/SR.1962), held on 22 January 2015, and adopted the following concluding observations at its 1983rd meeting, held on 30 January 2015.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPAC/IRQ/Q/1/Add.1). The Committee expresses its appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the State party's combined second to fourth periodic reports under the Convention (CRC/C/IRQ/CO/2–4) as well as those on the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/IRQ/CO/1), adopted on 30 January 2015.

II. General observations

Positive aspects

4. The Committee welcomes the State party's ratification of and accession to the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I), in April 2010.

5. The Committee welcomes the declaration made upon ratification of the Optional Protocol that the minimum age for recruitment is set at 18 years, and that recruitment needs to be genuinely voluntary.

* *Adopted by the Committee at its sixty-eighth session (12–30 January 2015).*

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III. General measures of implementation

Legal status

6. The Committee regrets that the Optional Protocol has not yet been sufficiently integrated into domestic legislation.

7. **In the light of article 6 of the Optional Protocol, the Committee urges the State party to fully incorporate the Protocol into its domestic legislation.**

Comprehensive policy and strategy

8. The Committee is seriously concerned at the current lack of any comprehensive policy and strategy to address increasing child recruitment and use in armed conflict.

9. **The Committee recommends that the State party adopt as a matter of urgency a comprehensive time-bound policy and strategy to cease the recruitment and use of children by armed groups operating in the State party, and ensure its implementation.**

Coordination

10. The Committee regrets the lack of information and recommends that the State party speedily set up a coordinating mechanism to combat all offences under the Optional Protocol effectively.

Allocation of resources

11. **The Committee regrets the lack of information and recommends the allocation of a specific budget for the dissemination and implementation of the Optional Protocol.**

Dissemination and awareness-raising

12. The Committee, while noting the efforts made by the State party to raise awareness on the provisions of the Optional Protocol, regrets that awareness of the principles and provisions of the Protocol is generally low.

13. **The Committee recommends that the State party strengthen its efforts to make the principles and provisions of the Optional Protocol widely known to the public at large, and to children in particular.**

Training

14. The Committee notes with appreciation that training on human rights, including children's rights, is provided to government officials, teachers, schoolchildren, human rights activists and members of non-governmental organizations by the National Institute of Human Rights. However, the Committee is concerned that specific training on the Optional Protocol is lacking.

15. **The Committee recommends that the State party organize mandatory training programmes on the provisions of the Optional Protocol for all relevant professionals working with and/or for children, in particular military personnel, border and immigration personnel, social workers and medical professionals.**

Data

16. The Committee regrets the lack of information and recommends the establishment of a specific and detailed database on all issues contained in the Optional Protocol.

Attacks on schools and hospitals

17. The Committee notes with the deepest concern that schools, recreational areas and hospitals are frequently subjected to targeted attacks. The Committee is also appalled by the executions of teachers and health personnel by the so-called Islamic State of Iraq and the Levant (ISIL) and notes that for several years several different non-State armed forces have been occupying schools, particularly in rural areas.

18. **The Committee reminds the State party that both schools and hospitals constitute protected civilian objects under international humanitarian law and should therefore benefit from the principles of distinction and proportionality. The Committee urges the State party to:**

(a) Ensure special protection for pupils and teachers, schools, recreational areas and hospitals, and put in place preventive measures and rapid response systems in case of attack;

(b) Promptly criminalize, investigate and prosecute attacks against hospitals, schools and recreational areas;

(c) Prioritize the rehabilitation of school buildings and facilities, and ensure that school infrastructure damaged as a result of military occupation is promptly and fully restored.

Sexual violence

19. The Committee is deeply concerned at the systematic sexual violence committed against children, especially children from minorities, by the so-called ISIL, in particular the abduction and sexual enslavement of children.

20. **In the light of the recommendations made in the concluding observations under the Convention (CRC/C/IRQ/CO/2–4, para. 46), the Committee urges the State party to:**

(a) Provide specialized medical care for children who have been victims of sexual violence, ensure timely medical care within 72 hours to reduce the risk of sexually transmitted diseases and infections, in particular HIV, and provide victims with access to emergency contraception and abortion services;

(b) Provide special psychological care to children who have been the victims of sexual violence, and take all necessary measures to ensure their physical and psychological recovery and reintegration;

(c) Ensure the prosecution and punishment of perpetrators;

(d) Consider seeking technical assistance from the appropriate United Nations bodies and agencies.

IV. Prevention

Age verification procedures

21. The Committee is concerned that the birth registration system remains weak in the State party, particularly in rural and remote areas, a situation which may hamper age determination at the time of recruitment into the armed forces.

22. **The Committee recommends that the State party take all necessary measures to ensure that children are registered immediately after birth, inter alia by establishing civil registration mechanisms in hospitals, as well as by establishing and encouraging**

the use of mobile registration units, particularly in remote and rural areas. Furthermore, the Committee recommends that the State party ensure that, in the absence of a birth certificate, the age of a recruit is determined by other reliable means, including medical examinations, which respect the dignity of the recruit.

Voluntary recruitment

23. The Committee is deeply concerned about reports indicating children's involvement in the Awakening Councils, which operate under the control of the Ministry of Defence. The Committee is also concerned about reports that underage boys have been recruited by the Councils under fake identity cards and have been used to man checkpoints in areas outside Baghdad, and that the State party has taken insufficient measures to address this issue.

24. **The Committee recommends that the State party take all necessary measures to ensure full respect of the minimum age of recruitment, fixed at 18 years, and that safeguards are in place to ensure that recruitment is genuinely entered into voluntarily. In particular, the State party should conduct a thorough investigation to identify all children formerly associated with the Awakening Councils, and should ensure their subsequent release and that they are provided with adequate assistance for their psychosocial rehabilitation and professional reintegration.**

Prevention of recruitment by non-State armed groups

25. The Committee is deeply concerned about the lack of any safeguards to prevent the recruitment of children by armed groups. The Committee is also concerned that measures to address the leading factors in the involvement of children in armed conflict, notably poverty and lack of education and economic opportunities, as well as discrimination towards some ethnic and religious minorities, have proved insufficient.

26. **The Committee urges the State party to take more active measures to ensure that no children on its territory are recruited by non-State armed groups and to:**

(a) Address the root causes of the recruitment and involvement of children in armed conflict and launch a public information campaign to ensure that communities are aware of the dangers of child recruitment and aware of how to protect their children;

(b) Pay particular attention to the prevention of recruitment and re-recruitment of children in vulnerable situations, and increase the security and protection of civilian populations within and around refugee camps, in particular by controlling borders effectively and strengthening cross-border frameworks of cooperation and exchange of information with Turkey to repatriate children and ensure that children are not re-recruited;

(c) Consider seeking technical assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Children's Fund (UNICEF).

Human rights and peace education

27. The Committee, while noting with appreciation that human rights education is included in the curricula of primary and secondary schools, expresses concern that peace education is absent from the school curricula.

28. **With reference to its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party undertake efforts to include**

education on peace and tolerance systematically in the school curricula, with special reference to crimes under the Optional Protocol.

V. Prohibition and related matters

Criminal legislation and regulations in force

29. The Committee is concerned that there is still no prohibition of the involvement of children in armed conflict. The Committee is also concerned that while article 13 of the Iraqi High Tribunal Act No. 10 of 2005 establishes as a war crime the conscription or enlistment of children under the age of 15 into the national armed forces, as well as into non-State armed groups, or their use as active participants in hostilities by national armed forces or non-State armed groups, it applies only to offences committed from 17 July 1968 to 1 May 2003 and therefore not to those committed subsequently.

30. **The Committee urges the State party to take prompt measures to ensure that the recruitment and use in hostilities of children under 18 years by the national armed forces and non-State armed groups are explicitly criminalized in the State party's legislation, and that perpetrators of crimes committed after 1 May 2003 are brought to justice. The Committee also recommends that the State party consider ratifying the Rome Statute of the International Criminal Court and accept the exercise of the Court's jurisdiction with respect to the current conflict situation.**

Recruitment and use of children by non-State armed groups

31. The Committee is seriously concerned about the large number of children recruited by non-State armed groups, in particular by the so-called ISIL and Al-Qaida in Iraq, especially children in vulnerable situations, such as refugee children, children with disabilities, children who have lost their parents, children in street situations and children from the Syrian Arab Republic and Turkey, as well as from other States, who enter the State party via the Turkish border. The Committee expresses its deepest concern about:

(a) Children being used as suicide bombers, including children with disabilities or who are sold to armed groups by their families;

(b) Children being used as human shields in order to protect ISIL facilities from airstrikes, and being frequently forced to witness brutal acts of torture and killing;

(c) Children being used as informants, for manning checkpoints, or as bomb makers for armed groups, in order to support their families, and some children being recruited and trained in kidnapping;

(d) Children as young as 12 or 13 years undergoing military training organized in Mosul by the so-called ISIL, which is reportedly also giving children the responsibility of guarding and arresting individuals;

(e) Pressure on children, particularly boys, who have fled the Syrian Arab Republic to return there to fight with the Free Syrian Army;

(f) Children recruited by militias supported by the Government.

32. **The Committee strongly urges the State party to take all necessary measures to eliminate all forms of recruitment and use of children in armed conflict, and in particular to:**

(a) Ensure that all forms of child recruitment or use of children in armed conflict, and any form of aiding and abetting recruitment and use, including by kidnapping or sale, be thoroughly investigated, prosecuted and punished;

(b) Ensure that no facilities are attacked where children are used as human shields, and protect children from other grave violations of human rights;

(c) Strengthen its cooperation with the Special Representative of the Secretary-General for Children and Armed Conflict in order to implement Security Council resolutions 1539 (2004), 1612 (2005) and 1882 (2009) effectively;

(d) Consider seeking technical assistance from appropriate United Nations agencies.

VI. Protection, recovery and reintegration

Detention of children under terrorism charges

33. The Committee is seriously concerned about the large number of children indicted or convicted of terrorism-related charges or their reported affiliation to individuals suspected of terrorism crimes and held in detention facilities, police stations and so-called "rehabilitation centres". The Committee is also concerned that child relatives of terrorism suspects are illegally arrested, held without charge or charged with covering up terrorist acts. The Committee notes with serious concern that:

(a) Children detained under terrorism charges reportedly suffer ill-treatment and acts amounting to torture while in detention and are faced with very poor detention conditions, lacking basic infrastructure, suffering from poor hygiene and ventilation, as well as poor quality of food, water and medical care, and that children, particularly girls, are frequently detained along with adults;

(b) Children charged with terrorism-related crimes are reportedly detained in extralegal facilities, for instance those run by the Iraqi National Intelligence Service;

(c) Children are transferred to death row upon turning 18 years of age;

(d) Children's families are not always informed that the child is being detained;

(e) Although permitted, access by United Nations personnel to detention centres where children are held is significantly hampered by heavy bureaucratic processes imposed by the authorities;

(f) Children detained under terrorist charges lack access to education and to appropriate psychosocial or specialized assistance.

34. **The Committee urges the State party to ensure that children prosecuted for terrorism-related offences are treated in accordance with juvenile justice standards, and that any trials are conducted in a prompt and impartial manner, in accordance with international fair trial standards, taking into account their age at the time of the alleged commission of the crime. The Committee also urges the State party to:**

(a) Ensure that children in detention have access to an independent complaints mechanism, that reports of cruel, inhuman or degrading treatment of detained children are investigated promptly in an impartial manner, and that perpetrators are brought to justice and sanctioned with penalties commensurate with their crimes if found guilty;

(b) Ensure that the death penalty and life imprisonment are never applied for crimes committed by persons under 18 years of age. If no clear proof of age can be established, young persons should be presumed to be children;

(c) Ensure that no child is detained in extralegal facilities, and that children are only detained as a measure of last resort and for the shortest possible period, and consider alternatives to detention;

(d) Ensure that parents or close relatives are informed where the child is detained and facilitate access to child detainees by United Nations agencies and civil society;

(e) Ensure that children are detained in humane conditions, separated from adults, have access to clean drinking water and sanitation, to sufficient and adequate nutrition, and to physical and psychological recovery, education and social reintegration measures;

(f) Provide all professionals working in the juvenile justice system with training on the Convention, the Optional Protocols thereto, other relevant international standards and the Committee's general comment No. 10 (2007) on children's rights in juvenile justice.

Disarmament, demobilization and reintegration

35. The Committee notes with the gravest concern that a significant number of children remain under the control of armed groups, where they are subjected to a variety of violations of the Convention and the Optional Protocols.

36. **The Committee urges the State party to secure the release and demobilization of all child abductees and combatants. The Committee calls upon the State party to develop as quickly as possible a long-term and comprehensive programme of assistance, rehabilitation, reintegration and reconciliation that takes into account, in particular, specific needs of children in vulnerable situations.**

Assistance for physical and psychological recovery and social reintegration

37. The Committee notes with appreciation the cooperation of the State party with United Nations agencies and civil society to provide psychological support and social reintegration assistance to victims of armed conflict. The Committee is concerned, however, that at present no form of assistance or support, including for their psychosocial and physical recovery or their social rehabilitation and reintegration, is provided to children who have been recruited or used by armed groups. The Committee also notes with concern that, in view of the armed conflict in the neighbouring country, the Syrian Arab Republic, and the fact that the State party is hosting a significant number of Syrian refugees, including children, in particular in Dohuk, Irbil and Sulaymaniyah, insufficient measures have been taken and resources allocated to provide care and services to refugee children who may have been or who are at risk of being recruited or used in hostilities, or sexually abused by armed groups.

38. **The Committee urges the State party to make every effort to ensure that children who have been recruited or used in armed conflict, or who have in any other way been involved in armed conflict, are provided with all necessary assistance for their physical and psychological recovery as well as social reintegration. The Committee recommends that the State party:**

(a) Develop, in collaboration with non-governmental organizations, international organizations and communities, a comprehensive system of psychosocial support and assistance for children affected by conflict, in particular child combatants, girls, unaccompanied internally displaced children and refugees, returnees and landmine survivors, addressing their special recovery needs after their traumatic experiences of war;

(b) Ensure that these services are accessible in all regions affected;

(c) Establish a comprehensive mechanism to identify at the earliest possible stage refugee and asylum-seeking children and children in migrant situations who may have been or who are at risk of being recruited and/or used in hostilities and/or sexually abused by armed groups abroad, and seek technical assistance from relevant United Nations agencies and programmes, including UNHCR and UNICEF;

(d) Take effective measures to ensure that children who have been recruited or used in hostilities can be reintegrated into the education system, including through non-formal education programmes, and by prioritizing the restoration of school buildings and facilities and the provision of water, sanitation and electricity in conflict-affected areas;

(e) Ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

VII. International assistance and cooperation

International cooperation

39. The Committee encourages the State party to set up a high-level interministerial committee on children and armed conflict to facilitate regular information-sharing on, and response to, grave violations against children.

40. The Committee also recommends that the State party continue and strengthen its cooperation with the International Committee of the Red Cross and with the Special Representative of the Secretary-General for Children and Armed Conflict, and that it explore increased cooperation with UNICEF and other United Nations entities in the implementation of the Optional Protocol.

41. The Committee recommends that the State party ratify the:

(a) Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts (Protocol II);

(b) Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the adoption of an additional distinctive emblem (Protocol III);

(c) Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.

VIII. Follow-up and dissemination

42. The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations by, inter alia, transmitting them for appropriate consideration and further action to the Parliament, relevant ministries, including the Ministry of Defence, the Supreme Court and local authorities.

43. The Committee recommends that the initial report, written replies submitted by the State party and the related concluding observations adopted by the Committee be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

IX. Ratification of the Optional Protocol on a communications procedure

44. **The Committee recommends that the State party ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in order to further strengthen the fulfilment of children's rights.**

X. Next report

45. **In accordance with article 8, paragraph 2, of the Optional Protocol, and with article 44 of the Convention, the Committee requests the State party to include further information on the implementation of the Protocol and the present concluding observations in its next periodic report under the Convention on the Rights of the Child.**